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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1977

No. 77-575

SMITH JOHN AND HARRY SMITH JOHN,

Appellants,

v.

STATE OF MISSISSIPPI,

ON APPEAL FROM THE SUPREME COURT OF MISSISSIPPI

MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* AND BRIEF OF THE MISSISSIPPI BAND OF CHOCTAW INDIANS AS *AMICUS CURIAE*

HARRY R. SACHSE

SONOSKY, CHAMBERS & SACHSE
2030 M Street, N.W.
Washington, D.C. 20036

Attorneys for *amicus curiae.*

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TABLE OF CONTENTS

Page

MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* 1-2

INTEREST OF THE *AMICUS CURIAE* 2-3

STATEMENT 3

The Federal Question Is Substantial 10

I. The Mississippi Supreme Court Has Ruled On A Political Question Beyond Its Jurisdiction, Namely The Recognition Of An Indian Tribe 10

II. The Mississippi Supreme Court Has Construed The Indian Reorganization Act And The Special Coctaw Legislation In A Manner That Defeats Their Remedial Purpose 11

III. The Holding Below That The State Of Mississippi Has Criminal Jurisdiction Over Land Held In Trust By The United States For The Mississippi Band Of Choctaw Indians Is Directly Contrary To This Court's Decision In *United States v. McGowan*, 302 U.S. 535 (1938) 15

CONCLUSION 17

AUTHORITIES CITED

Cases:

Baker v. Carr, 369 U.S. 186 (1962) 11

Board of Commissioners v. Seber, 318 U.S. 705 (1943) 13, 14

Lone Wolf v. Hitchcock, 187 U.S. 553, 555-556 (1902) 11

Maryland Casualty Company v. Citizens National Bank of West Hollywood, 361 F.2d 517, 477 (1966, C.A. 5) 13

Rosebud Sioux Tribe v. Kneip, 430 U.S. 584 (1977) 11

Seymour v. Superintendent of Washington State Penitentiary, 368 U.S. 351 (1962) 17

Page

Cases, continued:

The Kansas Indians, 72 U.S. 737 (1867) 10

United States v. Antelope, No. 75-661, April 19, 1977 17

United States v. Candelaria, 271 U.S. 432 (1926) 10

United States v. Forty-Three Gallons of Whiskey, 93 U.S. 188 (1876) 10

United States v. Holliday, 70 U.S. 407 (1866) 10

United States v. McGowan, 302 U.S. 535 (1938) 15, 16

United States v. Pelican, 232 U.S. 442 16

United States v. Ramsey, 271 U.S. 467 16

United States v. Sandoval, 231 U.S. 28 (1913) 10, 11, 15

United States v. State Tax Commission, 535 F.2d 300 (1976) 11

Constitution, statutes, regulation and proclamation:

Constitution of the United States
Article I, Sec. 8, Clause 3 .....11, 13

Indian Reorganziation Act of 1934, 25 U.S.C. 461-479 ..... *passim*

18 U.S.C. 1151, 1153 ..... 2, 15, 16, 17

Act of May 25, 1918, 40 Stat. 573. ..... 5, 15

Act of June 30, 1919, 41 Stat. 15 5

Act of February 14, 1920, 41 Stat. 420 5

Act of March 3, 1921, 41 Stat. 1236 5

Act of May 24, 1922, 42 Stat. 570 5

Act of January 24, 1923, 42 Stat. 1191 5

Act of March 3, 1925, 43 Stat. 1149 5

Act of May 10, 1926, 44 Stat. 461 5

Act of January 12, 1927, 44 Stat. 941 5

Act of March 7, 1928, 45 Stat. 206 5

Act of March 4, 1929, 45 Stat. 1568-1569 5

Page

Constitution, statutes, regulation and proclamation, continued:

Act of May 14, 1930, 46 Stat. 286 5

Act of February 14, 1931, 46 Stat. 1121 5

Act of June 21, 1939, 53 Stat. 851 ..... 7, 11, 12

9 Fed. Reg. 14907 (1944) 11

25 C.F.R. 11.1 *et seq.* 9

Treaties:

Treaty at Hopewell, January 3, 1786 (7 Stat. 21) 3

Treaty at Fort Adams, 1801 (7 Stat. 66) 3

Treaty at Fort Confederation, 1802 (7 Stat. 73) 3

Treaty at Hoe-Buckin-too-pa, 1803 (7 Stat. 80) 3

Treaty at Mount Dexter, 1805 (7 Stat. 98) 3

Treaty at Dancing Rabbit Creek, 1830 (7 Stat. 333) . 3, 10, 11

Miscellaneous:

Choctaw Demographic Survey, pp. 2, 4 (March, 1975) 7, 8

9 Fed. Reg. 14907 (Art. III), (1944) 7

Hearings before The Committee on Appropriations, House of Rep. 66th Cong. 3rd Sess. (1922) 3-4

H. Rept. No. 194, 76th Cong., 1st Sess. (1939) 6, 7, 12

Peterson, Jr., *The Mississippi Band of Choctaw Indians: Their Recent History and Current Social Reations* (doctoral dissertation, 1970) 5, 6

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

As shown in the discussion of the interest of the *amicus curiae* within, this case is of vital interest to the Mississippi Band of Choctaw Indians (the Tribe). While the Tribe is not a party, its jurisdiction is at

stake in this litigation. The appellants have consented to the filing of the Tribe's brief *amicus curiae,* but the appellee, the State of Mississippi, has refused its consent. The *amicus* brief is timely, as the brief of the State has not yet been filed and, consequently, no delay will be caused by acceptance of this brief.

The Mississippi Band of Choctaw Indians therefore respectfully moves for leave to file the attached brief *amicus curiae* in this case.

INTEREST OF THE *AMICUS CURIAE*

As we show within, the Mississippi Band of Choctaw Indians is a federally recognized Indian Tribe of more than 3,700 members with a Reservation established by Acts of Congress and declaration of the Secretary of the Interior under authority of Section 7 of the Indian Reorganization Act of 1934, (Act of June 18, 1934, 48 Stat. 984,) 25 U.S.C. 467.

The decision of the Supreme Court of Mississippi holds that the Secretary of the Interior's recognition of the Mississippi Band of Choctaw Indians as an Indian Tribe for purposes of the Indian Reorganization Act and the Secretary's declaration of the Reservation under the Act are invalid (J.S. App 4a, 8a). The Mississippi Supreme Court also holds that the State of Mississippi has exclusive criminal jurisdiction within the land held in trust by the United States for the Mississippi band of Choctaw Indians; that such trust land is not "Indian Country" within the meaning of 18 U.S.C. 1153. (Pet. App. 4a-8a).

The decision below is clearly incorrect and should be summarily reversed.

The Tribe's interests in the welfare of its people, in preserving its trust relationship with the United States,

and in continuing tribal government are at stake in this appeal.

STATEMENT

The Choctaw Indian Tribe was indigenous to the area now occupied by the State of Mississippi, though its original territory exceeded the State's boundaries.[1] After having its territory narrowed through a series of treaties[2] the Tribe in 1830 was forced to cede all tribal land in Mississippi.[3] The bulk of the Tribe was to move to Oklahoma, tribal members were, however, permitted to remain in Mississippi and were promised a reservation of one section of land each (*ibid*, Article 14).

Extensive land frauds and the inability of many of the Choctaw to speak English, or to understand non-Indian land tenure, resulted in most of the Choctaws who remained in Mississippi either never receiving or losing the land promised them by treaty. As Representative Venable of Mississippi stated (Hearings before subcommittee of House Committee on Appropriations, Indian Appropriation bill, 1922, 66th Cong. 3d Sess (1920), p. 329):

> . . . . When I came to Congress . . . I was already interested . . . in the condition of the full blood Choctaw Indians of Mississippi, about 1200 of whom live in my district . . . . Their economic condition was very bad. They had no schools,

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[1] See Treaty at Hopewell, January 3, 1786, 7 Stat. 21.

[2] E.g., 1801 – Treaty at Fort Adams (7 Stat. 66); 1802 – Treaty at Fort Confederation (7 Stat. 73); 1803 – Treaty at Hoe-Buckin-too-pa (7 Stat. 80); 1805 – Treaty at Mount Dexter (7 Stat. 98);

[3] Treaty at Dancing Rabbit Creek, 7 Stat. 333.

they lived back in the interior along the little creeks and rivers.

* * * * *

They reserved certain land to themselves when the Choctaw Tribe moved to Oklahoma. But they were relieved of all restrictions. They were a people who had never had any experience in the handling of individualistic property . . . The result . . . was what anyone could have expected, that knowing nothing of the value of the land, and having had no experience in the handling of land, in the course of time they practically lost their lands and parted with them for a song . . . .

* * * *

The result is that the Indians, without any fault on their own part and we will say without any fault on the part of the Government—as such—we will say they were unfortunate in their agents—never received any substantial relief at all.

* * * *

I did not feel that it was an answer to say that these Indians at one time had certain lands, because the way the Government let them handle these lands produced the result that was inevitable.

Until the early 1900's the United States largely ignored the Mississippi Choctaws or was concerned only with moving them to Oklahoma. The Mississippi Choctaws, in this period, lived as outcasts in Mississippi, part of neither white nor black society, but retained their language, traditions, and cohesion. They lived primarily in seven small aboriginal Indian villages in the area of Philadelphia, Mississippi.[4]

[4]The villages, which remain the centers of the Reservation today, are Bogue Chitto, Bogue Homa, Conehatta, Pearl River, Red Water, Standing Pine, and Tucker. The best history of the [footnote continued]

The Bureau of Indian Affairs sent special agents to visit the Mississippi Choctaws in 1908 and again in 1916. "The reports of these agents emphasized the poor health, education, and economic status of the Choctaws." (Peterson, *op. cit.* 110) The need to bring the Mississippi Choctaws under federal trsut responsibility was obvious and came to a head at the time of World War I and the influenza epidemic of 1918. The Choctaws, living in substandard housing as share croppers, without land, " . . . . were dying like flies, often without any medical attention." (*Ibid*, quoting from the wife and nurse of a local doctor). With pressure from the Mississippi Congressional delegation (see Peterson, 1093; statement of Representative Venable, supra p. 3-4) an Agency of the Bureau of Indian Affairs was established at Philadelphia, Mississippi in 1918 to serve the Mississippi Choctaws (Act of May 25, 1918, 40 Stat 573; Peterson, 111-118).

Under a series of specific appropriations beginning with the establishment of the agency, the United States purchased land in and near the traditional Indian communities for the Mississippi Choctaws which became the basis of the Tribe's present reservation.[5]

Mississippi Choctaws between 1830 and roughly 1970 is John Holbrook Peterson, Jr., *The Mississippi Band of Choctaw Indians: The Recent History and Current Social Relations*, a doctoral dissertation submitted to the University of Georgia (Athens, Georgia, 1970) and published in facsimile by University Microfilms, A Xerox Company, Ann Arbor, Michigan (1970), hereafter referred to as "Peterson."

[5]Act of May 25, 1918, 40 Stat. 573; Act of June 30, 1919, 41 Stat. 15; Act of February 14, 1920, 41 Stat. 420; Act of March 3, 1921, 41 Stat. 1236; Act of May 24, 1922, 42 Stat. 570; Act of January 24, 1923, 42 Stat. 1191; Act of March 3, 1925, 43 Stat. 1149; Act of May 10, 1926, 44 Stat. 461; Act of January 12, 1927, 44 Stat. 941; Act of March 7, 1928, 45 Stat. 206; Act of March 4, 1929, 45 Stat. 1568-69; Act of May 14, 1930, 46 Stat. 286; Act of February 14, 1931, 46 Stat. 1121.

In the 1920's and early 1930's considerable, though modest, progress was made. In addition to purchases of land, the United States opened a series of Indian elementary schools providing the first formal education available to most Mississippi Choctaw Indians:

Pearl River School–1920
Standing Pine School–1920
Tucker School–1921
Bogue Homa School–1922
Red Water School–1925
Conehatta School–1928
Bogue Chitto School--1930
(Peterson, p. 129)

A bureau of Indian Affairs hospital was opened in 1929 and expanded in 1934. (Information supplied by The Choctaw Agency, Bureau of Indian Affairs).

The true return to dignity and self-determination for the Mississippi Choctaw Indians began shortly thereafter.

In 1934 Congress enacted the Indian Reorganization Act, (IRA) supra, 25 U.S.C. 461-479. Section 5, 25 U.S.C. 465, authorized the Secretary of the Interior to acquire lands ". . . within or without existing reservations . . . for the purpose of providing lands for Indians." Section 7, 25 U.S.C. 467, authorized the Secretary of the Interior to "proclaim new Indian reservations on lands acquired persuant to . . . . this Act." Section 19, 25 U.S.C. 479, defined Indians so as to include not only recognized bands as well as tribes but "all other persons of one-half or more Indian blood."

Under these provisions the United States made additional purchases for the Mississippi Choctaws. H. Rpt. No. 194, 76th Cong., 1st Sess. (1939) p. 1. The Interior Department then proposed and Congress enacted the Act

of June 21, 1939, 53 Stat. 851, (J.S. App. 1a-2a), which declared that "all lands purchased by the United States for the benefit of the Choctaw Indians of Mississippi . . . is hereby declared to be in the United States for such Choctaw Indians of one-half or more Indian blood, resident in Mississippi, as shall be designated by the Secretary of the Interior." The specific purposes of the 1939 Act were to place the lands already purchased for the Choctaw Indians in Mississippi "in the same status as the lands being purchased under the Indian Reorganization Act" and to allow the Mississippi Choctaws to organize a tribal government under section 16 of the IRA, 25 U.S.C. 476 H. Rept. No. 194, *supra*, pp. 2-3.

On December 4, 1944, acting pursuant to the 1939 Choctaw Act and Section 7 of the Indian Reorganization Act, 25 U.S.C. 467, the Secretary of the Interior issued a proclamation listing the lands held in trust by the United States for the Mississippi Choctaws and stating that "such lands are hereby declared to be an Indian reservation for the benefit of those members of the Mississippi Band of Choctaw Indians of one-half or more Indian blood." App. A, *infra*, 9 Fed. Reg. 14907 (1944). On April 20, 1945, the Secretary ratified the Constitution and Bylaws of the Mississippi Band of Choctaw Indians, limiting membership to Mississippi Choctaw Indians of one-half or more Indian blood (Art. III).

The Mississippi Choctaw Indian population living on or near the reservation based on a 1974 survey is 3,783 Indians.[6] Unlike many Indian tribes, the majority of the Choctaw are full-blood Indians, and Indians of

[6]Choctaw Demographic Survey, pp. 2, 4. The Survey, made under grant from the Office of Education, United States Department of Health, Education and Welfare, was published in March, 1975 by the Mississippi Band of Choctaw Indians. We have lodged a copy with the Clerk and served copies on the parties.

less than half-blood are, as shown above, not eligible for membership. The 1974 survey shows (*id* p. 16, table 20) that 80.3 % of the Choctaws predominantly speak the Choctaw language in their homes; an additional 12.3% speak both Choctaw and English. Only 7.1% reported that they speak predominantly English at home (*ibid*).

The Mississippi Band of Choctaw Indians has made steady progress in a difficult environment under federal trust responsibility, and has developed a strong government and system of social services.

To the elementary school system, a BIA Choctaw Central High School has been added; all the schools offer bi-lingual Choctaw-English programs.

Vast strides have been made in housing, largely Indian built through a tribal construction company and federal funding. The Indian Health Service has recently completed a new hospital on the Reservation and a tribal community health program strives to make medical service available to all the people.

The total federal expenditure on behalf of the Tribe in fiscal year 1976 was $10,762,400, covering a full range of social services.[7]

An important part of this tribal progress is the federal and tribal court system. The Mississippi Choctaw Reservation is located in a portion of Mississippi where white racial intolerance and police insensitivity are well documented recent historical facts, and too often present today. It is important to the progress of the Tribe, a group of culturally, racially and linguistically distinct

[7]The expenditures are detailed in App. B, *infra*, letter of November 25, 1977, from the Choctaw Agency of the Bureau of Indian Affairs to counsel.

people, that they have federal law enforcement to assure that crimes against them are punished, and thus discouraged. But federal and tribal law enforcement also serve another vital purpose. Indians accused of offenses in their communities are apprehended by Indian police and are tried either in the Tribal Court (misdemeanors) or in federal courts, thus minimizing the effect of local prejudice in apprehension, jailing, and trial.[8]

The tribal police force consists of eight BIA policemen drawn from the Tribe but paid and directed by the BIA and two tribal trainees, paid by the Tribe. A tribal jail was built in 1974 with Federal Law Enforcement Assistance (LEAA) funds. Prior to that time the government contracted for use of jails as far away as Meridian, Mississippi, to avoid placing Indians in the Neshoba County Jail at Philadelphia, Mississippi, which was and is considered unsafe.

Indian juvenile offenders are usually handled through the tribal youth center or tribal foster homes if they appear before the Tribal Court, rather than being incarcerated in the county jails.[9]

If the decision of the Supreme Court of Mississippi is not reversed, the federal and tribal court system will be without jurisdiction, the Indians will be fully subject to state and county law enforcement. Successful tribal programs dependent on federal support and the existence of the tribe itself will be jeopardized.

[8]The "Tribal Court" is technically a Bureau of Indian Affairs "court of Indian Offenses" See 25 C.F.R. 11.1 *et seq.* Its three principal judges are tribal members. A local lawyer, usually non-Indian, serves as auxilliary judge.

[9]Information concerning the tribal court system and jails was furnished counsel by Robert Benn, Superintendent of the Choctaw Agency, Bureau of Indian Affairs, Philadelphia, Mississippi, by letter dated November 22, 1977 and in telephone conversations.

THE FEDERAL QUESTION IS SUBSTANTIAL

I.

THE MISSISSIPPI SUPREME COURT HAS RULED ON A POLITICAL QUESTION BEYOND ITS JURISDICTION, NAMELY THE RECOGNITION OF AN INDIAN TRIBE.

The Supreme Court of Mississippi to find exclusive state criminal jurisdiction has apparently held that the Mississippi Choctaws ceased to be an Indian tribe after the 1830 Treaty at Dancing Rabbit Creek and that the Secretary of the Interior could not thereafter treat them as a tribe under the Indian Reorganization Act (Pet. App. 5a-8a). But these determinations, necessary to the Mississippi court's conclusion, intrude into a function entrusted to the political branches of the federal government—Congress and the Executive. For at least 100 years, this Court has without exception deferred to decisions by the Secretary of Interior and Congress as to whether an entity is an Indian tribe. In *United States v. Holliday*, 70 U.S. 407, 419 (1866), the Court held that:

> "In reference to all matters of this kind, it is the rule of this court to follow the action of the executive and other political departments of the government, whose more special duty it is to determine such affairs. If by them those Indians are recognized as a tribe, this court must do the same."

See also *The Kansas Indians*, 72 U.S. 737, 755-756 (1867) (federal recognition of continued existence of tribe prevented State taxation of tribal land).

An unbroken line of cases—*United States v. Forty-three Gallons of Whiskey*, 93 U.S. 188, 195(1876);*United States v. Sandoval*, 231 U.S. 28 (1913); and *United States v. Candelaria*, 271 U.S. 432 (1926)—confirms that the courts will not review recognition of an Indian tribe by the executive or legislative branches unless that decision

is "arbitrary" or a "manifestly unauthorized exercise of power." *United States v. Sandoval*, supra at 46; *Baker v. Carr*, 369 U.S. 186, 216 (1962).

The court below disregarded these controlling decisions by failing to give any weight whatsoever—let alone the substantial weight that should have been accorded—to the clear determinations by Congress and the Secretary that the Mississippi Choctaws are an Indian tribe entitled to the benefits of the Indian Reorganization Act.

To some extent, this error of the court below may have been due to another misconception it had—that since Congress had removed the Choctaw Tribe to Oklahoma by the 1830 Treaty, it could not subsequently alter the treaty by recognizing the Mississippi remnant. The court quoted with approval a recent decision of the court of appeals for the Fifth Circuit *United States v. State Tax Commission* 535 F.2d 300 (1976) as follows:

> "The Treaty of Dancing Rabbit [sic] is a part of the Supreme Law, United States Constitution, Article 6, Clause 2, and it cannot be altered by an Act of Congress" [J.S. App 6a]

This is plain error. This Court has long confirmed the plenary power of Congress to alter the provisions of a a treaty. E.g., *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 587-588 (1977); *Lone Wolf v. Hitchcock*, 187 U.S. 553, 555-566 (1902).

II.

THE MISSISSIPPI SUPREME COURT HAS CONSTRUED THE INDIAN REORGANIZATION ACT AND THE SPECIAL CHOCTAW LEGISLATION IN A MANNER THAT DEFEATS THEIR REMEDIAL PURPOSES.

Section 5 of the IRA (25 U.S.C. 465) authorizes the Secretary of the Interior to acquire lands "*within or without existing reservations* . . . for the purpose of providing lands for *Indians*" (emphasis added). Section 7

(25 U.S.C. 467) authorizes the Secretary "to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act . . ." Section 19 (25 U.S.C. 479) defines Indians in a way which clearly includes the Choctaw Indians of Mississippi: "the term 'Indian' as used in this Act [in addition to members of recognized tribes or *bands*] . . . shall further include all other persons of one-half or more Indian blood".

Within his authority, then, the Secretary continued after 1934 to take land in trust for the Mississippi Choctaws, and proclaimed the lands a reservation for the Mississippi Choctaws pursuant to Section 7, supra.[10]

The Secretary's actions were also, as we have shown authorized by the Act of June 21, 1939, *supra*, which specifically declared that land purchased for the Choctaw Indians of Mississippi is held in trust by the United States for such persons "of one-half or more Indian blood, resident in Mississippi, as shall be designated by the Secretary of the Interior." The purposes of that Act, as we have shown, were to treat all the land purchased for the Choctaw of Mississippi as land purchased under the I.R.A. and to "facilitate matters greatly if the Indians should choose to organize under Section 16 of the Indian Reorganization Act and take over administration of their lands," H. Rept. No. 194, 76th Cong. 1st sess., p. 3.

The above statutes are as clear as any statutes could be

[10]Since Section 19 of the IRA also defines a "tribe" as "any organized band . . . or the Indians residing on one reservation," after be proclaimed the reservation the Secretary permitted the Mississippi Choctaws which had been an organized band for some time and now had a reservation to adopt a constitution and by-laws pursuant to Section 16 of the IRA, 25 U.S.C. 476.

in evincing the intent of Congress that lands may be taken in trust and a reservation established for the Mississippi Choctaws. The actions of the Secretary of the Interior in establishing the Reservation are likewise plainly in harmony with the authority conferred upon him by Congress.

The Mississippi Supreme Court concluded, however, that despite these contemporary interpretations by Congress itself and the Secretary, Congress did not intend to include the Mississippi Choctaws within the Indian Reorganization Act, an Act of general application in the governments' wardship over Indians.[11]

This error of the Mississippi Court appears to us to be based on a misconception of the extent of Congress' power and trust responsibility concerning Indians.

Congress' guardianship over Indians is not limited to the protection of tribes as such but reaches the protection of individual Indians and bands or communities of Indians fragmented from tribes. Article I, Section 8, Clause 3 of the Constitution expressly gives Congress power over commerce with the Indian tribes. But Congress' power flows not only from that clause. As war and government policy broke up tribal structures, a broader constitutional base for Congress' power over Indian affairs was recognized by this Court. In *Board of Commissioners v. Seber,* 318 U.S. 705 (1943), this Court, in upholding the immunity from state taxation of land

[11]Compare *Maryland Casualty Company v. Citizens National Bank of West Hollywood,* 361 F.2d 517, 477 (1966, C.A. 5) upholding the immunity from suit of the Seminole Tribe of Florida, Inc., the I.R.A. reorganization of the Seminole band in Florida. The majority of the Seminoles had been removed to Oklahoma, as had been the case with the Choctaw and Cherokee.

purchased for individual Indians, under two Acts of Congress held [at 715]:

> The Acts of 1936 and 1937 are constitutional. From almost the beginning the existence of federal power to regulate and protect the Indians and their property against interference even by a state has been recognized.
>
> * * * *
>
> In the exercise of the war and treaty powers, the United States overcame the Indians and took possession of their lands, sometimes by force, leaving them an uneducated, helpless and dependent people, needing protection against the selfishness of others and their own improvidence. Of necessity, the United States assumed the duty of furnishing that protection, *and with it the authority to do all that was required to perform that obligation and to prepare the Indians to take their place as independent, qualified members of the modern body politic* [emphasis supplied].

Seber is particularly relevant here because it upholds the constitutionality of Congress' provision of land, and tax immunity, to "un-enrolled Creeks of the half blood or more ***" although the tribal rolls of that Tribe, also removed to Oklahoma, had been closed (318 US at 718-719).

Plainly, Congress had authority to provide a reservation, trust lands and other federal protections to the destitute Mississippi Choctaws. It would be a cruel and senseless result if Congress, having removed the bulk of a tribe to a reservation, was without power to establish federal protection for the remnant left behind—the group often in most need of help. To be sure, Congress cannot "bring a community or a body of people within the range

of this power by arbitrarily calling them an Indian tribe," *United States v. Sandoval*, 231 U.S. 28, 46 (1913). But Congress and the Secretary have made no arbitrary classifications here. The beneficiaries of these statutes are at least half-blood (and most are full-blood) Choctaw Indians—whom Congress found abandoned, long-neglected and in clear need.

III.

THE HOLDING BELOW THAT THE STATE OF MISSISSIPPI HAS CRIMINAL JURISDICTION OVER LAND HELD IN TRUST BY THE UNITED STATES FOR THE MISSISSIPPI BAND OF CHOCTAW INDIANS IS DIRECTLY CONTRARY TO THIS COURT'S DECISION IN *UNITED STATES v. McGOWAN*, 302 U.S. 535 (1938)

The Supreme Court of Mississippi held that land held in trust by the United States for the Mississippi Band of Choctaw Indians is not "Indian country" under 18 U.S.C. 1153 (as defined in 18 U.S.C. 1151) and is not subject to federal criminal jurisdiction (J.S. App. 8a). Totally apart from questions of reservation status this holding, on which the case turns, is clearly in error.

When the Indians of Nevada were removed to reservations, scattered Indians were left about the State. In 1917 and in 1926, Congress appropriated funds out of which land was bought in trust for these Indians. The Acts closely resembled the Choctaw Act of May 25, 1918, and like that early act did not refer to the Indians, specifically as a tribe. In considering whether this created "Indian country" and federal criminal jurisdiction although Nevada had already become a State, the Supreme Court in *United States v. McGowan*, stated, 302 U.S. at 538-539 (1938):

> The fundamental consideration of both Congress and the Department of the Interior in establishing

this colony has been the protection of a dependent people. Indians in this colony have been afforded the same protection by the government as that given Indians in other settlements known as "reservations." Congress alone has the right to determine the manner in which this country's guardianship over the Indians shall be carried out, and it is immaterial whether Congress designates a settlement as a "reservation" or "colony." In the case of United States v. Pelican, 232 U.S. 442, 449, this Court said:

> "In the present case the original reservation was Indian country simply because *it had been validly set apart for the use of the Indians as such, under the superintendence of the Government.*"

The Reno Colony has been validly set apart for the use of the Indians. It is under the superintendence of the Government. The Government retains title to the lands which it permits the Indians to occupy. The Government has authority to enact regulations and protective laws respecting this territory. "Congress possesses the broad power of legislating for the protection of the Indians wherever they may be within the territory of the United States." *United States v. Ramsey,* 271 U.S. 467, 471. [footnotes omitted, emphasis in original.]

While it is clear that the Mississippi Choctaw Reservation is validly established, the existence of federal and tribal criminal jurisdiction, and the absence of state jurisdiction, turns on the definition of Indian country in 18 U.S.C. 1151 not "reservation status." As *McGowan* demonstrates, the acquisition of land in trust for the Indians and the extension of federal services to them creates Indian country. Moreover, under 18 U.S.C. 1151, a definition enacted after *McGowan,* adopting its

principle, federal jurisdiction extends not only to all land within an Indian Reservation but to "(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state . . . ." The land held in trust for the Mississippi Band of Choctaw Indians is clearly within this definition.

The criminal jurisdiction of the United States as set forth in 18 U.S.C. 1151 and 18 U.S.C. 1153 precludes state jurisdiction over offenses committed by or against Indians in Indian country, and precludes jurisdiction by the State of Mississippi over the appellants here. *Seymour v. Superintendant of Washington State Penitentiary,* 368 U.S. 351 (1962); see also *United States v. Antelope* No. 75-661 decided April 19, 1977.

CONCLUSION

This Court should grant the appeal or, in the alternative, the petition for a writ of certiorari and should reverse the decision of the Mississippi Supreme Court.

Respectfully submitted,

HARRY R. SACHSE
SONOSKY, CHAMBERS
& SACHSE

Attorneys for *amicus curiae.*

APPENDIX A
9 F.R. 14907

PROCLAMATION

WHEREAS, prior to June 18, 1934, and pursuant to authority of and with funds made available by the act of May 25, 1918 (40 Stat. 573), and several subsequent similar acts, approximately 3,550 acres of lands in Mississippi were purchased for the use and benefit of Choctaw Indians of that State;

AND WHEREAS, the act of June 21, 1939 (53 Stat. 851) provides:

> "That title to all lands purchased by the United States for the benefit of the Choctaw Indians of Mississippi, under authority contained in the Act of May 25, 1918 (40 Stat. L., 573), and similar subsequent Acts, not under contract for resale to Choctaw Indians, or on which existing contracts of resale may hereafter be canceled, is hereby declared to be in the United States in trust for such Choctaw Indians of one-half or more Indian blood, resident in Mississippi, as shall be designated by the Secretary of the Interior."

AND WHEREAS, on March 30, 1935, the Choctaw Indians resident in Mississippi, of one-half or more Indian blood, pursuant to Section 19 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) voted to accept the provisions of that act, and subsequently pursuant to Section 5 of said act, approximately 11,600 acres of additional land in Mississippi have been acquired for the use and benefit of the Choctaw Indians of one-half or more Indian blood, resident in that State, the title having been taken in the name of the United States in trust for said Choctaw Indians;

AND WHEREAS, none of the previously acquired lands for the benefit of the aforesaid Choctaw Indians is now covered by any outstanding contract or contracts for the resale of any part thereof to any Choctaw or other Indian;

NOW THEREFORE, by virtue of the authority contained in the act of June 21, 1939, and in Section 7 of the Act of June 18, 1934, *supra*, I hereby declare that the lands in Mississippi acquired by the United States prior to June 18, 1934, for the benefit of the Choctaw Indians of that state are now held in trust by the United States for the benefit of those Choctaw Indians of one-half or more Indian blood resident in that state on January 1, 1940, as shown by the census rolls of the Choctaw Indian Agency, Mississippi, and such other Choctaw Indians of one-half or more Indian blood, resident in Mississippi, as the recognized tribal authorities of the Mississippi Band of Choctaw Indians, with the approval of the Secretary of the Interior, find to be entitled to membership therein; and I hereby further declare that the approximately 11,600 acres of additional land in Mississippi, acquired since June 18, 1934, for the benefit of the Choctaw Indians of that State are hereby added to the land previously acquired and such lands are hereby declared to be an Indian reservation for the benefit of those members of the Mississippi Band of Choctaw Indians, of one-half or more Indian blood, resident in Mississippi and enrolled at the Choctaw Indian Agency as aforesaid.

For convenient identification a legal description of the areas of land acquired for the benefit of the Choctaw Indians and covered hereby, is hereto appended as "Ex-

hibit A" which is made a part hereof to the same extent as though set forth in full herein.

Done at the City of Washington, District of Columbia, this *4th* day of *December*, 1944.

APPENDIX B

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
CHOCTAW AGENCY
PHILADELPHIA, MISSISSIPPI 39350

IN REPLY REFER TO:

Administration

November 25, 1977

Honorable Harry Sachse
Attorney at Law
2030 M Street, NW
Washington, D. C. 20036

Dear Mr. Sachse:

Listed on the attachment are the federal expenditures in assisting the Choctaw Tribe for Fiscal Years 76 and 77 (from all federal sources of funding) for your information.

Sincerely yours,

William W. Tyke
Acting Superintendent

Attachment

RECEIVED NOV 28 1977

FEDERALLY FUNDED TRIBAL PROGRAMS

Source	Fiscal Year 1976	Fiscal Year 1977
Bureau of Indian Affairs Contracts	$1,575,988.00	$2,425,940.00
Department of Labor	$1,042,081.00	735,253.00
Indian Health Service Contracts	435,842.00	$1,147,351.00
National Institute of Alcholism and alchol abuse	59,290.00	59,290.00
Housing and Urban Development	26,000.00	26,000.00
Office of Community Development	303,984.00	
Appalachion Regional Commission	40,672.00	
Department of Health, Education and Welfare	$1,267,530.00	$1,342,549.00
Law Enforcement Agency Administration	14,000.00	116,244.00
Office of Economic Opportunity	51,500.00	
TOTAL	$4,816,887.00	
Revenue Sharing		48,000.00
Economic Development Administration		736,920.00
National Endowment for Arts		12,500.00
Civil Service Commission		25,025.00
U. S. Department of Agriculture		257,000.00
Community Services Administration		100,000.00
American Becentennial Commission		140,000.00
TOTAL		$7,172,072.00
* B.I.A Choctaw Agency Budget	$3,322,200.00	$3,995,200.00
* I.H.S Choctaw Health Center Budget	$2,623,313,00	$3,743,180.00

* Does not include Tribal Contracts